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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,294	02/26/2004	Gary Piaget	2071/US/2	7642
20686	7590	08/08/2006	EXAMINER	
DORSEY & WHITNEY, LLP INTELLECTUAL PROPERTY DEPARTMENT 370 SEVENTEENTH STREET SUITE 4700 DENVER, CO 80202-5647			CROW, STEPHEN R	
			ART UNIT	PAPER NUMBER
			3764	
DATE MAILED: 08/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/789,294		PIAGET ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Steve R. Crow		3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22, 24, 36 and 37 is/are pending in the application.
- 4a) Of the above claim(s) 7-18, 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 19-20, 24, 36-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the brake having a fluid filled vessel with an impeller blade as recited in claim 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the brake having a fluid filled vessel with an impeller blade as recited in claim 20 as

described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Information Disclosure Statement***

1. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

Applicant has cited an extraordinary number of references, some which are not relevant to the claimed invention, in the submitted information disclosure statements. In accordance with 37 CFR 1.105 and MPEP 704, applicant (or the assignee) is required (1) to provide

an explanation as to why each reference has been cited, (2) what specific feature in each reference is pertinent to respective limitations in the claims, and (3) how each reference cited defines over the claim(s) wherein each of (1), (2), and (3) should be meaningfully different. A simple statement that each of the references are relevant will not be sufficient. If applicant deems certain of the references cited to not be relevant, applicant should submit a new IDS containing only references that are pertinent to the examination of this application. In so doing, applicant is still required to provide each of (1), (2), and (3) above. This requirement is reasonably necessary for examination in light of the extraordinary number of cited references by applicant. Because the applicant (or the assignee) has presumably inspected all of the listed citations, it is reasonable to require the applicant to provide the information needed so that the most relevant citations are fully considered.

### ***Specification***

3. The disclosure is objected to because of the following informalities:
4. On page 40 line 3 of the Specification, "belt318" should be changed to –belt 318–.
5. On the amended specification dated 7-30-06, the application refers to itself in the "incorporated by reference" section.

Appropriate correction is required.

### ***Priority***

This application claims lists several provisional applications with some having different effective filing dates. Since this case has several complex embodiments, the examiner is requesting the applicant to state on record which provisional application corresponds to the currently elected embodiments.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1,2,24 are rejected under 35 U.S.C. 102(b) as being anticipated by Liu.

Liu discloses a combination treadmill and stepping device comprising first and second pivoting treadle assemblies each having a moving surface (endless belt) 24; an interconnection assembly 26 operably interconnecting the treadle assemblies such that pivotal movement of one treadle results in movement of the second treadle in an opposite direction. Note resistance elements 21 and 26 (figure 6) which are considered to be operably coupled to the interconnection assembly .

8. Claims 1-3, 36-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Eschenbach (517).

Eschenbach discloses a combination treadmill and stepping device comprising first and second pivoting treadle assemblies 22 each having a moving surface (endless belt) 26 . Interconnection assembly (the elements defined within the shroud 85) operably interconnect the treadle assemblies such that pivotal movement of one treadle results in movement of the second treadle in an opposite direction. The

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examiner also contends that the above mentioned structure further includes resistance means provided by the pulley, transmission and flywheel structures.

As to claim 3, note the rocker arms 28 which inherently pivot about a pivot point and which interconnect the treadles.

As to claims 36-37, note motor 61 which drives the tread belts 24-26.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Bull.

Bull discloses the use of a interconnection assembly comprising a rocker arm 54 arranged to pivot about a first pivot point; and further comprises first and second portions 138 which are located on opposite sides of the pivot point and are coupled to respective treadles 22-24. In view of the Bull treadle interconnection teaching, it would have been obvious to one skilled in the art to substitute the Bull rocker arm interconnection means in the Liu exercise device by interconnecting the Liu treadles with the alternative rocker arms as taught by Bull to create the desired interactive pivotal movement of the treadles, and to provide discrete adjustment to the treadle

movements via the Bull turnbuckle teaching as shown in figure 4 for producing different treadle movements.

11. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Kuo.

Kuo discloses a very similar exercise device having a pair of treadmill treads which are pivotally connected to a frame. Kuo teaches the well recognized use of a motor and transmission for driving the endless belts of a treadmill. In view of this teaching, it would have been obvious to one skilled in the art to provide a motor and transmission arranged in the same manner as taught by Kuo for driving the Liu treadles for simulating a treadmill which would then require a user to walk faster or run to keep up with the moving endless belts.

### ***Response to Arguments***

12. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve R. Crow whose telephone number is 571-272-4973. The examiner can normally be reached on Reg:8:30-6;Off First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SC



STEPHEN R. CROW  
PRIMARY EXAMINER  
ART UNIT 332